



**Texas Department of Insurance**  
**Division of Workers' Compensation**  
Medical Fee Dispute Resolution, MS-48  
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1609

## MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

### PART I: GENERAL INFORMATION

Requestor Name and Address:  CARL E HUBBELL MD 11803 SOUTH FREEWAY SUITE 310 FORT WORTH TX 76115	MFDR Tracking #: M4-09-A306-01
	DWC Claim #:
	Injured Employee:
Respondent Name and Box #:  AMERISURE MUTUAL INSURANCE COMPANY Box #: 47	Date of Injury:
	Employer Name:
	Insurance Carrier #:

### PART II: REQUESTOR'S POSITION SUMMARY AND PRINCIPAL DOCUMENTATION

**Requestor's Rationale for Reimbursement:** "Late filing due to employee, employer. Our office was not notified until 5-12-09 that this needed to be filed with Amerisure."

**Principal Documentation:**

1. DWC 60 Package
2. Medical Bill(s)
3. Explanation of Benefits (EOBs)
4. Medical Records
5. Total Amount Sought - \$982.00

### PART III: RESPONDENT'S POSITION SUMMARY AND PRINCIPAL DOCUMENTATION

**Respondent's Position Summary:** "This claim was reported to our office in the form of a letter from Mr. Hall's attorney. On May 12, 2009, I received information that the claimant was seen by Dr. Carl Hubbell for his injury and that this was reported as a private pay to Dr. Hubbell. Dr. Hubbell's Office alleges they did not know it was workers compensation, so they did nothing with the bill. This does not appear to be one of the exceptions mentioned in Sec. 408.0272. Exceptions for Untimely Submission of Claim. (a) in this section: (1) 'Group accident and health insurance' has the meaning assigned by Chapter 1251, Insurance Code.' (2) 'Health maintenance organization' has the meaning assigned by Chapter 843, Insurance Code. (b) Notwithstanding Section 408.027, a health care provider who fails to timely submit a claim for payment to the insurance carrier under Section 408.027(a) does not forfeit the provider's right to reimbursement for that claim for payment solely for failure to submit a timely claim if: (1) the provider submits proof satisfactory to the commissioner that the provider, within the period prescribed by Section 408.027(a), erroneously filed for reimbursement with (a) an insurer that issues a policy of group accident and health insurance under which the injured employee is covered insured; (B) a health maintenance organization that issues an evidence of coverage under which the injured employee is a covered enrollee; or (C) a workers' compensation insurance carrier other than the insurance carrier liable for the payment of benefits under this title, or (2) The commissioner determines that the failure resulted from a catastrophic event that substantially interfered with the normal business operations of the provider.."

**Principal Documentation:**

1. Response Package

### PART IV: SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Calculations	Amount in Dispute	Amount Due
12/08/2008	CPT Code 99283 CPT Code 26350	Not Applicable	\$982.00	\$0.00
Total Due:				\$0.00

## **PART V: FINDINGS AND DECISION**

This medical fee dispute is decided pursuant to Tex. Lab. Code Ann. §413.031 of the Texas Workers' Compensation Act, and pursuant to all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

### **Background**

1. Texas Labor Code Section §408.027 and division rule 28 Tex. Admin. Code §133.20 set out the guidelines for health care providers to timely submit a medical bill for reimbursement.
2. Texas Labor Code Section §408.0272 set out the guidelines for certain exceptions for untimely submission of claims for health care providers to timely submit a medical bill for reimbursement.
3. 28 Tex. Admin. Code §102.4 set out the general rules for communications between health care providers and workers' compensation insurance carriers.
4. 28 Tex. Admin. Code §133.20 sets out the procedure for health care providers to submit workers' compensation medical bill for reimbursement.
5. 28 Tex. Admin. Code §133.307 set out the procedure for health care providers to pursue a medical fee dispute.
6. The services in dispute were denied or reduced by the insurance carrier based upon:

Explanation of benefits dated 05/14/2009 and 06/18/2009 noted claim reduction code:

- 29 – THE TIME LIMIT FOR FILING HAS EXPIRED. DENIAL BASED ON NOT TIMELY FILING AS OF SEPT. 1, 2005 A HCP IS REQUIRED TO SUBMIT A MEDICAL BILL WITHIN 95 DAYS OF THE DATE OF SERVICE. PLEASE SEE COMMISSONER BULLETIN B-0037-06A.
- 193 – ORIGINAL PAYMENT DECISION IS BEING MAINTAINED. THIS CLAIM WAS PRCESSED PROPERLY THE FIRST TIME. DENIAL BASED ON NOT TIMELY FILING AS OF SEPT. 1, 2005 A HCP IS REQUIRED TO SUBMIT A MEDICAL BILL WITHIN 95 DAYS OF THE DATE OF SERVICE. PLEASE SEE COMMISSONER BULLETIN B-0037-06A.

### **Issues**

1. Did the requestor submit a medical bill for the services in dispute timely and in accordance with Tex. Labor Code §408.027, §408.0272 and 28 Texas Admin. Code §133.20?
2. Is this requestor entitled to reimbursement for the disputed services?

### **Findings**

1. 28 Tex. Admin. Code §133.20(b) states in pertinent part "Except as provided in Labor Code §408.0272...a health care provider shall not submit a medical bill later than the 95<sup>th</sup> day after the date the services are provided." No documentation was found to support that §408.0272 applies to the services in dispute, for that reason, the health care provider and requestor in this dispute were required to send the medical bill no later than 95 days after the service in dispute was provided. 28 Tex. Admin Code §102.4(h) states "Unless the great weight of evidence indicates otherwise, written communications shall be deemed to have been sent on: (1) the date received, if sent by fax, personal delivery, or electronic transmission or; (2) the date postmarked if sent by mail via United States Postal Service regular mail, or if the postmark date is unavailable, the later of the signature date on the written communication or the date it was received minus five days. If the date received minus five days is a Sunday or legal holiday, the date deemed sent shall be the next previous day which is not a Sunday or legal holiday." The request for dispute resolution was received in the MDR section on 07/13/2009. Review of the documentation submitted finds an office note dated 05/12/2009 indicating that the insurance adjuster called to report claimant has workers comp insurance with Amerisure and to fax her a bill, an EOR summary showing bill review date 05/14/2009 and 06/18/2009, a copy of a medical bill with the printed date "05/12/09" found in box 31. No documentation was found to sufficiently support, pursuant to 28 Tex. Admin Code §102.4(h) that the medical bill was sent within 95 days from the date the services were provided.
2. Pursuant to 28 Texas Labor Code §408.027, the health care provider and requestor in this medical fee dispute has forfeited the right to reimbursement due to untimely submission of the medical bill for the services in dispute.

### **Conclusion**

For the reasons stated above, the division finds that the requestor has waived the right to medical fee dispute resolution. As a result, the amount ordered is \$0.00.

**PART VI: ORDER**

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the services involved in this dispute.

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

**June 29, 2010**

\_\_\_\_\_  
Date

**PART VII: YOUR RIGHT TO REQUEST AN APPEAL**

Either party to this medical fee dispute has a right to request an appeal. A request for hearing must be in writing and it must be received by the DWC Chief Clerk of Proceedings within **20** (twenty) days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. **Please include a copy of the Medical Fee Dispute Resolution Findings and Decision** together with other required information specified in Division rule at 28 Tex. Admin. Code §148.3(c).

Under Texas Labor Code § 413.0311, your appeal will be handled by a Division hearing under Title 28 Texas Administrative Code Chapter 142 rules if the total amount sought does not exceed \$2,000. If the total amount sought exceeds \$2,000, a hearing will be conducted by the State Office of Administrative Hearings under Texas Labor Code §413.031.

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**